



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1126]

Certain Water Filters and Components Thereof

Notice of a Commission Determination to Review-in-Part an Initial Determination Granting Complainants' Motion for Summary Determination of Violation of Section 337 by the Defaulting Respondents, and, on Review, to Modify Certain Portions of the Initial Determination; Request for Written Submissions on Remedy, Bonding, and the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part an initial determination ("ID") (Order No. 17) of the presiding administrative law judge ("ALJ") granting summary determination of violation of section 337 by certain defaulting respondents. The limited purpose of the review is to correct an error in a citation on page 44 and two typos on page 31 of the ID. The Commission requests written submissions on remedy, bonding, and the public interest.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436, telephone 202-205-3228. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter

can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on August 1, 2018, based on a complaint, as amended, filed on behalf of Electrolux Home Products, Inc. of Charlotte, North Carolina, and KX Technologies, LLC of West Haven, Connecticut (collectively, "Complainants"). 83 *Fed. Reg.* 37514 (Aug. 1, 2018). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337") based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain water filters and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,673,146 ("the '146 patent"), 8,137,551 ("the '551 patent"), 9,233,322 ("the '322 patent"), and 9,901,852 ("the '852 patent") (collectively, the "Asserted Patents"). *Id.* The Commission's notice of investigation names eight respondents. *Id.* The Office of Unfair Import Investigations ("OUII") is also a party to the investigation.

On October 3, 2018, the ALJ issued an initial determination finding certain respondents in default, specifically, Shenzhen Calux Purification Technology Co., Limited ("Calux"); Jiangsu Angkua Environmental Technical Co., Ltd. ("Angkua Environmental"); and Shenzhen Dakon Purification Tech Co., Ltd. (collectively, "the Defaulting Respondents"). *See* Order No. 9 (Oct. 3, 2018), *not reviewed*, Notice (Oct. 25, 2018). The remaining respondents, specifically, Ningbo Pureza Limited; HongKong Ecoaqua Co., Limited; Ecolife Technologies, Inc.; Ecopure Filter Co., Ltd.; and Crystala Filters LLC ("Settled Respondents"), were terminated from the investigation due to settlement. *See* Order Nos. 14, 15, 16, *not reviewed*, Notice (April 1, 2019).

On February 12, 2019, Complainants filed a motion for summary determination of

violation of section 337 by the Defaulting Respondents. Complainants requested a general exclusion order (“GEO”) and cease and desist orders (“CDOs”) against all three Defaulting Respondents. On March 8, 2019, OUII filed a response supporting a finding of a violation as well as the requested remedies of a GEO and CDOs for two of the Defaulting Respondents (Calux and Angkua Environmental).

The ALJ issued the subject ID on July 11, 2019, granting the motion for summary determination and finding a violation of section 337 by the Defaulting Respondents. Specifically, the ID finds that Complainants established infringement of claims 1-3, 6, 7, and 15 of the ’146 patent, claim 49 of the ’551 patent, claims 1-3, 7-9, and 12-15 of the ’322 patent, and claims 1, 4-6, 9-11, 14-18, and 21-31 of the ’852 patent with respect to each Defaulting Respondents’ accused product(s) by substantial, reliable, and probative evidence. The ALJ recommended that the Commission issue a GEO and CDOs against Calux and Angkua Environmental. The ALJ also recommended setting a bond during Presidential review of 100 percent. *Id.* No party petitioned for review of the subject ID.

The Commission has determined to review the subject ID in part for the limited purpose of correcting an error in a citation on page 44 and two typos on page 31 of the ID. *See* ID at 44, 31. The ID’s findings of section 337 violations as to the Defaulting Respondents are based on substantial, reliable, and probative evidence, and they do not require further substantive review. *See* 19 U.S.C. 1337(d)(2). The Commission has determined not to review the remainder of the ID.

In connection with the final disposition of this investigation, the Commission may (1)

issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (December 1994). In addition, if Complainants seek a cease and desist order against a respondent, the written submissions should respond to the following requests:

1. Please identify with citations to the record any information regarding commercially significant inventory in the United States as to each respondent against whom a cease and desist order is sought. If Complainants also rely on other significant domestic operations that could undercut the remedy provided by an exclusion order, please identify with citations to the record such information as to each respondent against whom a cease and desist order is sought.
2. In relation to the infringing products, please identify any information in the record, including allegations in the pleadings, that addresses the existence of any domestic inventory, any domestic operations, or any sales-related activity directed at the United States for each respondent against whom a cease and desist order is sought.

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 *Fed. Reg.* 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

Complainant and OUII are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the date that the Asserted Patents expire, to provide the HTSUS subheadings under which the accused products are imported, and to supply identification information for all known importers of the products at issue in this investigation.

Written submissions and proposed remedial orders must be filed no later than close of business on September 6, 2019. Reply submissions must be filed no later than the close of business on September 13, 2019. Such submissions should address the ALJ's recommended determinations on remedy and bonding made in Order No. 17. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight true paper copies to the Office of the Secretary pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-1126") in a prominent place on the cover page and/or the first page. (*See Handbook on Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and

evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel (all contract personnel will sign appropriate nondisclosure agreements), solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR Part 210.

By order of the Commission.

Issued: August 23, 2019.

William Bishop,
Supervisory Hearings and Information Officer.

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